IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4007 OF 2005.

Kolhapur District Nagari Bank
Sevakanchi Sahakari Pat Sanstha
Ltd. Kolhapur. ... Applicant.
Versus.
Vijay Shankar Chavan & anr. ... Respondents.

Shri Amit B.Borkar for the Applicant.

Shri S.D.Patil for the Respondent No.1.

Shri U.V.Nikam, A.P.P. for State.

CORAM : ABHAY S.OKA, J.

DATED : 19th December, 2006.

P.C.:

1. Heard Shri Borkar appearing in support of the Application. The Applicant filed a complaint under section 138 of the Negotiable Instrument Act, 1881 against the 1st Respondent. The order of acquittal is passed on the ground that though the Applicant received the intimation of dishonour of the cheque on 6th November 2002, the notice under section 138(b) of the said Act of 1881 was issued on 22nd November 2002.

2. Shri Borkar submitted that the register maintained by the Applicant shows that in fact the intimation of dishonour was received on 11th November 2002. He submitted that the intimation is issued on 6th November 2002 and therefore, it is impossible that the intimation could have been received by the Applicant on the same day. He submitted that what is mentioned in

the deposition of the Manager of the Applicant is the date mentioned on the memorandum of dishonour and not the date of the receipt thereof by the Applicant. He submitted that the date on which intimation of dishonour was received can be proved only on the basis of the register maintained by the Applicant and the said Register shows that the intimation was received on 11th November 2002.

3. I have considered the submissions. The complaint does not disclose that the intimation of dishonour was received on 11th November 2002. Even in the affidavit of examiantion-in-chief of the representative of the Applicant, he did not state that the intimation was received on 11th November 2002. A perusal of the notice under section 138(b) of the said Act of 1881 shows that the intimation was received on 6th November 2002.

4. It is thus obvious that the view taken by the learned trial Judge is a possible view which could have been taken on the basis of the material on record. Even assuming that another view is possible to be taken, it is not a ground to interfere in an appeal against acquittal. No case is made out for grant of leave. The Application is rejected.

Judge.